



State of Delaware

Court Modernization Review Committee Meeting Minutes

This meeting was held on August 29, 2019, in conference room 219 of the Haslet Building located at 122 Martin Luther King Jr. Blvd S, Dover, DE 19901.

Committee Members Represented or in Attendance:

Director Mike Jackson	Office of Management and Budget
Senator David Sokola	Co-chair, Joint Legislative Committee on the Capital Improvement Program
Senator Brian Pettyjohn	Delaware State Senate, minority party appointee
Representative Ron Gray	Delaware House of Representatives, minority party appointee
Mike Morton	Controller General
Chief Justice Leo Strine	Delaware Supreme Court
Chief Judge Michael Newell	Delaware Family Court
Secretary Rick Geisenberger	Department of Finance
Tom McGonigle	Delaware Bar Association

Committee Members Not Represented or in Attendance:

Representative Debra Heffernan	Co-chair, Joint Legislative Committee on the Capital Improvement Program
Senator Quinton Johnson	Co-chair, Joint Finance Committee
Senator Harris McDowell	Co-chair, Joint Finance Committee
Rob Rider	Delaware Prosperity Partnership

Others in Attendance:

Bill Lenihan	Bill Montgomery
Andy Lubin	Ellie Torres
Michael Svaby	Saul Hernandez
Nicole Polite	Laird Stabler
Evelyn Nestlerode	Jason Smith
Kevin Carroll	

I. Call to order

Director Mike Jackson called to order the first meeting of the Court Modernization Review Committee at 1:40 PM on August 29, 2019.

II. Introductions

Director Jackson asked the attendees to introduce themselves.

III. Bond Bill Epilogue Authorizing Committee & Purpose

Director Jackson provided a copy of the epilogue language, Section 16 to the committee which states;

Section 16. Court Modernization Projects. (a) It is the intent of the General Assembly that a thirteen member review committee be created to evaluate public-private partnership and traditional financing options as they relate to the construction of a new Family Court courthouse in Kent County, a new Family Court courthouse in Sussex County, and the renovation and expansion of the Leonard L. Williams Justice Center in New Castle County. The review committee shall include the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program, the Co-Chairs of the Joint Finance Committee, one minority caucus member appointed by the President Pro Tempore of the Senate, one minority caucus member appointed by the Speaker of the House, the Chief Justice of the Delaware Supreme Court, the Chief Judge of the Delaware Family Court, the Controller General, the Secretary of the Department of Finance, the Director of the Office of Management and Budget, a representative of the Delaware State Bar Association, and a representative from the Delaware Prosperity Partnership.

The review committee shall prepare a report of their findings to be presented to the Governor, the President Pro Tempore of the Senate and the Speaker of the House by December 1, 2019.

(b) Notwithstanding any provision of 29 Del. C. c. 94, the Director of the Office of Management and Budget is authorized to enter into an agreement with Sussex County for parcel transfers, including the Sussex County Courthouse Annex, for purposes of potential construction of the Sussex County Family Courthouse project. Said agreement shall be subject to the approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program and shall be effective no earlier than an approved financing plan or final report satisfying the provisions of this section.

IV. Draft Scope & Fiscal Impact of Projects

Chief Justice Strine provided an overview and background information for the history of the Kent, Sussex and New Castle/Customs House Courthouses. He included details from the 2006 report for the southern Family Court house facilities (Kent and Sussex) that indicated the need for updates and noted that the facilities have gotten worse since that report. He noted that as a committee, we need to determine if something is done about the courthouses now or wait until something happens and we have to do it. He further stated that this issue has been documented for a long time, and the Courts have done everything they can for this problem. The Chief Justice explained that after an in-depth assessment, it was determined that a Public private partnership (P3) would be the preferred contracting and financing model for delivering the courthouse projects.

Chief Judge Newell of the Family Court provided additional information on the background from the Family Court perspective for Sussex and Kent County Courthouses. The Sussex County Family Courthouse was constructed in 1988 and the Kent County Family Courthouse was constructed in 1989. Based on the scope and using best practice standards for office space and court rooms, the Sussex County Family Courthouse is requested to increase from 31,000 square feet to 107,325 square feet and the Kent County Family Courthouse is requested to increase from 35,000 square feet to 99,914 square feet. The primary reasons behind the sizable requested expansion include security and operational concerns. There is nowhere to grow in the current buildings however the courts have significantly grown in jurisdiction. Family Court has the most emotionally charged litigants and the litigants and judicial staff are very close to each other during hearings. There are no separate waiting areas between victims and inmates, and this causes dignity and security risks. There are no confidential areas for defense services or attorneys to speak with their clients in these sensitive issues. In both courthouses, there are mixed circulation of inmates, litigants, victims and the judicial staff. An additional concern is that the buildings are very poorly set up for ADA compliance.

The Custom house site in Wilmington was a US Custom House and US District Court. The original courtroom in this facility is a historical site. The Custom house would provide space to house the Court of Chancery and upon renovation would be expected to encourage other businesses to locate to that area.

The estimated fiscal impact for all three projects is at least \$250 million (our non-transportation Bond Bill in FY 2020 was approximately \$450 million).

The committee then discussed the proposals and recognized that there is a need for the buildings to be replaced, but it would be 50% of resources available in a good year and in a bad year it would eat up all of the resources. If we do a public/private partnership (P3) the project would be able to be started and work on both buildings. Due to the current market, we might be able to get a better deal for financing. We need to be basing the numbers on the most current data and some of the analysis should be updated to reflect changes in the last 9 months. The Chief Justice noted that the P3 concept would provide value engineering and better equipment and integrity. The final RFP will need to include that if for any reason they are not performing the state wouldn't pay. The expectation would be that they would make minor capital improvements and that they have to supply the building to us in prime shape when they turn it over to us in the 30-year time. There needs to be comparison for traditional vs P3 because there are additional costs for the traditional way, but there are concerns for who we are dealing with and their financial stability for a 30-year relationship. There are other states looking into projects like this. Secretary Geisenberger noted that we can leverage the state financial advisors to provide us financial advice, like PFM.

V. Next meeting – Review Financing Alternatives

Director Jackson requested the next meeting include discussions around the P3 including the impacts, schedule, comparison, financial impact, maintenance and management.

This is an important project, but there are always important projects and we will need to give up something else in the future.

VI. Public Comment

There was no public comment.

VII. Adjournment

Director Mike Jackson adjourned the meeting at 3:12 pm.

Respectfully Submitted,

Ronda Ramsburg